UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,272	03/22/2004	Yasushi Ayaki	MTS-3514US	1942

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *06 February 2008*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1 and 3-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1 and 3-23* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1 and 3-23 remain for examination. The correspondence filed 2/8/06 amended claims

1, 3-11, 13-18, & 20-23; and cancelled claim 2.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-23 have been considered but are moot in view

of the new ground(s) of rejection.   Examiner wishes to note for the record, however, that in response

to applicant's arguments against the references individually, one cannot show nonobviousness by

attacking references individually where the rejections are based on combinations of references. See

In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). In particular, the fact that the Conte reference does not disclose features

that were already known to be present in the Terranova reference does not in and of itself render the

claim(s) to be non-obvious.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Dresel et al. (U.S. Patent

6,170,019).

Regarding claim 21:

      Dresel discloses a data use management method comprising the step of when transmitting

data via network from a transmitting apparatus connected to the network and capable of receiving

and using the data, permitting access to the data by at least one receiving apparatus via the network based on the transmitting time for transmission of predetermined information between the transmitting apparatus and said receiving apparatus exceeding one value (col. 7, lines 55-67; col. 8, lines 20-45).

Claim Rejections - 35 USC § 103

5.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6.   Claims 1, 3-20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terranova et al. (U.S. Patent 6,868,434) in view of Dresel et al (U.S. Patent 6,170,019) in view of Conte et al. (U.S. Patent 5,845,065).

Regarding claims 1, 3, 22, and 23:

Terranova discloses a data use management system and method comprising at least one receiving apparatus connected to a network and capable of receiving and using predetermined data, and a transmitting apparatus which transmits the data to said receiving apparatus via said network (Figure 1), wherein the use of the data on said network is managed on the basis of the transmitting time required for transmission of predetermined information between said transmitting apparatus and said receiving apparatus (col. 3, line 52 – col. 4, line 13), : transmission time measuring means of measuring the transmission time required for transmission of predetermined information for measurement between said transmitting apparatus and said receiving apparatus (col. 3, lines 52-63); reference time storage means of storing at least one reference time (col. 4, lines 1-10); transmitting side authentication means of comparing the transmission time and the reference time classified on the basis of the reference time the transmission time belongs (col. 3, line 64 – col. 4, line 13).

Although Terranova appears to suggest that the measuring of the transmission latency plays some role in an authentication process (Ibid), it is unclear exactly how the latencies are involved, given Terranova's subsequent discussion of the additional use of typical authentication methods such as ACLs (e.g. col. 10, lines 15-30). Nevertheless, Dresel discloses wherein one may include, as part of the authentication mechanism for a web application and in conjunction with typical authentication methods such as a password (col. 6, lines 25-60), wherein "ping" messages are sent at regular intervals between a browser and a server, wherein if the transmission time for the ping exceeds a predetermined threshold, then the user is immediately deauthorized and access to one's data is denied (col. 7, lines 55-67; col. 8, lines 20-45). It would have been obvious to use the latencies of ping messages as a determinant for whether one may continue to access data remotely over a network, as the technique of using ping messages for this purpose was clearly within the ordinary capabilities of one of ordinary skill in the art.

Neither Terranova nor Dresel explicitly discloses authentication count means of incrementing the authentication count which is the number of instances performed by the transmitting-side authentication means; and the management function of comparing the authentication count with a maximum authentication count determined in advance with respect to each of the ranges of transmission time, and inhibiting further authentication if the authentication count is larger than the maximum authentication count. However, Conte discloses in an analogous system for accessing files and running network-aware applications (col. 3, lines 10-20; cf. Terranova, col. 1, lines 25-40) that an authentication count can be implemented, and can be used to inhibit further authentication if the authentication count is larger than the maximum authentication count (col. 20, lines 5-50; col. 11, lines 30-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a counter to keep track of a limited number of authentications in the system

disclosed by Terranova. The motivation for doing so would be to increase the overall efficiency of the system and minimize delay (col. 3, lines 1-10).

Regarding claim 4:

Conte further discloses wherein said receiving apparatus has a unique identifier (col. 8, lines 30-65), and wherein, when said transmitting-side authentication means performs authentication with said receiving device, and the authentication on said receiving apparatus results in success, said transmitting-side authentication means identifies said receiving apparatus through said identifier (Ibid).

Regarding claim 5:

Conte further discloses wherein when an authentication request is sent from said receiving apparatusaid transmitting-side authentication means determines, through said identifier, whether or not from which the authentication request received from the receiving apparatus is the same as said receiving apparatus on which authentication has already been made successfully (Ibid; and col. 26, lines 30-40).

Regarding claim 6:

Conte further discloses wherein if the authentication count is equal to or larger than the predetermined maximum authentication count, said transmitting-side authentication means performs such control that said transmitting-side authentication means does not accept the authentication request from said receiving apparatus. (col. 20, lines 25-50).

Regarding claim 7:

Terranova further discloses reference time setting means of setting the reference time on the basis of the result of measurement of the transmission time required for transmission of the information for measurement over a predetermined reference route. (col. 10, lines 30-40)

Regarding claim 8:

Conte further discloses wherein said transmitting-side authentication means sets the maximum authentication count to a smaller value on the basis of the result of said classification. (col. 16, lines 10-20)

Regarding claim 9:

Conte further discloses wherein said transmitting-side authentication means sets, with respect to each class in said classification, a count increment value by which said authentication count means increments the count. (col. 20, lines 25-50)

Regarding claim 10:

Conte further discloses wherein the maximum authentication count is determined with respect to each class in said classification; said authentication count means increments the authentication count with respect to each class in said classification; and said transmitting-side authentication means limits the authentication count so that the authentication count with respect to each class in said classification does not exceed the maximum authentication count. (col. 20, lines 5-50)

Regarding claim 11:

Conte further discloses attribute information management means of managing attribute information about the predetermined data transmitted over said network, wherein said transmitting-side authentication means limits the authentication count on the basis of the result of said classification and the attribute information (col. 3, 10-30).

Regarding claim 12:

    Conte further discloses wherein copy control information is used as the attribute information (col. 3, lines 20-30).

Regarding claim 13:

    Terranova further discloses further comprising medium type determination means of determining a type of medium in transmission routes constituting said network, wherein said transmitting-side authentication means sets the reference time according to the type of medium, and limits the authentication count according to the result of classification made on the basis of the set reference time (col. 6, lines 30-55).

Regarding claim 14:

    Terranova further discloses wherein when said medium type determination means detects the existence of a plurality of types of medium in the transmission routes, it selects the transmission medium type presumed to have the longest transmission time among the detected transmission media, and wherein said transmitting-side authentication means uses the selected type of medium for setting of the reference time. (col. 4, lines 1-30)

Regarding claim 15:

    Terranova further discloses further comprising transmission mode determination means of determining a transmission mode in the transmission routes constituting said network, wherein said transmitting-side authentication means does not execute limitation of the authentication count on the basis of the result of said classification if the determined transmission mode is a predetermined transmission mode with no need for authentication count limitation with respect to the transmission time. (Ibid)

Regarding claim 16:

Conte further discloses further comprising billing information management means of managing billing information, wherein said transmitting-side authentication means limits the authentication count on the basis of the result of said classification and the billing information (col. 25, lines 5-15).

Regarding claim 17:

Terranova and Conte further disclose wherein said transmitting-side authentication means registers the transmission time together with said identifier and keeps the maximum value of the authentication count equal to or smaller than a predetermined number by canceling at least one of the authentications of a plurality of the registered receiving apparatus if the authentication count reaches the maximum value when authentication is newly performed. (Terranova: col. 10, lines 30-40; Conte: col. 20, lines 5-50)

Regarding claim 18:

Conte further discloses wherein if the registered receiving apparatus has a transmission time longer than the transmission time measured at the time of newly performing authentication when the authentication of any one of the registered receiving apparatus is cancelled, said transmitting-side authentication means cancels the authentication of the registered receiving apparatus having the longest transmission time. (col. 19, lines 10-30).

Regarding claim 19:

Terranova further discloses further comprising updating means of updating, according to input information externally supplied, at least one of the reference time and authentication count limitation conditions used by said transmitting-side authentication means. (col. 10, lines 30-40)

Regarding claim 20:

Conte further discloses wherein the data needs copy protection (col. 2, 45-65).

7.   Claim 21 is additionally rejected under 35 U.S.C. 103(a) as being unpatentable over Terranova

in view of Dresel.

Regarding claim 21:

        Terranova discloses a data use management method comprising the step of when transmitting

data via network from a transmitting apparatus connected to the network and capable of receiving

and using the data (Figure 1), and measuring the transmitting time for transmission of predetermined

information between the transmitting apparatus and said receiving apparatus exceeding one value

(col. 3, line 52 – col. 4, line 13).

        Although Terranova appears to suggest that the measuring of the transmission latency plays

some role in an authentication process (Ibid), it is unclear exactly how the latencies are involved,

given Terranova's subsequent discussion of the additional use of typical authentication methods such

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methods such as a password (col. 6, lines 25-60), wherein "ping" messages are sent at regular

intervals between a browser and a server, wherein if the transmission time for the ping exceeds a

predetermined threshold, then the user is immediately deauthorized and access to one's data is

denied (col. 7, lines 55-67; col. 8, lines 20-45). It would have been obvious to use the latencies of

ping messages as a determinant for whether one may continue to access data remotely over a

network, as the technique of using ping messages for this purpose was clearly within the ordinary

capabilities of one of ordinary skill in the art.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. The Wikipedia and Microsoft Technet references help establish the technique of using

ping messages was a very common and well known technique to those of ordinary skill in the art at the time of the invention.

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Gyorfi whose telephone number is (571)272-3849. The examiner can normally be reached on 8:30am - 5:00pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAG
5/8/08
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